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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Tamar Giloh

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EXAMINER

STEPHENS, JACQUELINE F

ART UNIT

PAPER NUMBER

3761

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/723,244	TAMAR GILOH	
	Examiner	Art Unit	
	Jacqueline F. Stephens	3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-36, 38-40, 42, 44-51, 54 and 57-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-36, 38-40, 42, 44-51, 54 and 57-73 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/13/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 29-36, 38-40, 42, 44-51, 54, and 57-73 have been considered and are partially persuasive.

With respect to the objection to the specification and the rejection of claims 35, 36, 38-40, 63, and 64 under 35 U.S.C. 112, first paragraph, the argument is persuasive.

2. With regard to the rejection of claims 29-34, 51, 54, 58, 59, 61, 62, 66, and 73 as rejected under U.S.C. 102(b) as being anticipated by Rodriguez USPN 5411493, Applicant argues that the references fail to show certain features of applicant's invention. It is noted that the features upon which applicant relies (i.e., different thicknesses made within the same layer) are not recited in the rejected claim(s). Claim 29 requires "the garment body having different thicknesses of the liquid impermeable material". The Examiner interprets this limitation as the layer can be a single layer or a double layer, which creates different thicknesses of the material in different areas of the body. The claim does not require the layer itself to have different thicknesses. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As to the limitation of the loose fibers, Applicant argues the specification clarifies that loose fibers are blown onto the garment form and attached to the exterior surface of the garment. The argument is directed to a process of making

the article. Determination of patentability is based on the product itself. Rodriguez discloses a structure with loose fibers directly affixed to a part of the inner surface of the integrally formed garment body as broadly as claimed. Unless applicant can show that blowing the fibers onto the surface renders a different physical structure as opposed to integrating fibers by another method, the product of Rodriguez is analogous to the claimed invention and the rejection is valid. See MPEP 2113.

3. With regard to the rejection of claims 29, 33, 47, 48, 59, 60, 66, 67, and 70 as rejected under U.S.C. 102(e) as being anticipated by Shlenker et al. USPN 5965276, Applicant argues that the references fail to show certain features of applicant's invention. As to the limitation of different thicknesses, see the discussion in paragraph 2 above. Shlenker discloses single and multiple layer membranes, with discrete inner or outer layers joined only in a cuff region. The single discrete layers are one thickness of the membrane. Where the single layer meet in the cuff region are two layers and represent a different thickness of the material on the garment body. As to the limitation of the loose fibers, Applicant argues Shlenker merely discloses fibers as part of a long list of materials being contained between the layers. However, a reference may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art and although Shlenker teaches other materials, it does teach fibers on the inner surface of the impermeable material. Applicant argues that the references fail to show certain features of applicant's invention. It is noted that the features upon which applicant relies (i.e., the fibers disclosed in Shlenker do not coat the product and are not

in direct contact with the wearer's body) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

4. With regard to the rejection of claims 29, 30, 32-36, 38-40, 42, 44-47, 50, 57, 59, 61, 63-66, 68-69, and 72 as rejected under U.S.C. 102(e) as being anticipated by Lasko et al. USPN 6277104, Applicant argues that the references fail to show certain features of applicant's invention. In one interpretation of 'different thicknesses', Lasko discloses the barrier structure is thinned by embossing and stretched to create pores (col. 6, lines 53-56). While the pores are areas where the material is absent, the process of thinning the film to create the pores will invariable create different thicknesses in the film. In another interpretation of 'different thicknesses' as discussed in paragraph 2 above, Lasko discloses barrier structure in an overlapping arrangement, wrapping around a flange seal (col. 9, lines 24-26). The single layer of the barrier structure is one thickness and where the layer is overlapped on itself, is another thickness. As to the limitation of the loose fibers, Applicant argues Lasko fails to disclose loose fibers as recited in independent claim 29, and specifically Lasko discloses element 78 as "sintered flattened particles 78 of barrier structure 76". Lasko discloses these particles may comprise fibers (col. 7, lines 41-56) and Lasko discloses these particles may be adhered to the substrate without fusing by the use of adhesive (col. 7, lies 19-21). The combination of fibers adhered to the surface meets the claim limitation of the loose

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fibers directly affixed to at least a part of the inner surface of the integrally formed garment body.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 29-34, 51, 54, 58, 59, 61, 62, 66, and 73 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodriguez USPN 5411493.

As to claims 29, 33, 34, 58, 59, 66, and 73, Rodriguez discloses an integrally formed garment body 10 of stretchable liquid impermeable material (col. 6, lines 61-68 and col. 7, lines 11-14), the garment body having different areas of thicknesses of the liquid impermeable material, in areas where the material overlaps to form pockets and seams (Figures 4-6); and loose fibers directly affixed to at least part of the inner surface of the integrally formed garment body (col. 6, lines 31-49). The examiner considers the fibers loose as broadly as claimed, as they are unattached to the layer. The garment comprises an absorptive device 50 associated with the inner surface of the integrally formed garment body.

As to claims 30, 32, and 61, Rodriguez discloses a fastening device 30 for adjusting the garment on a wearer.

As to claims 31, 51, 54, and 62, Rodriguez discloses a connector 44 associated with the integrally formed garment body, and a tubing 25 connected to the integrally formed garment body by the connector. The tubing is associated with the absorbent material (col. 7, lines 48-54).

7. Claims 29, 33, 47, 48, 59, 60, 66, 67, and 70 are rejected under 35 U.S.C. 102(e) as being anticipated by Shlenker et al. USPN 5965276.

As to claims 29, 33, 47, 59, 60, 66, and 67, Shlenker discloses an integrally formed garment body, such as a glove comprising an elastomeric liquid impermeable

material (col. 1, lines 35-46), the garment body having different thicknesses of the liquid impermeable material where Shlenker discloses a inner and outer layers having a single-layered membrane and the surfaces are joined at the cuff creating a multi-layered membrane (Abstract). Shlenker discloses loose fibers directly affixed to at least part of the inner surface of the integrally formed garment body (col. 8, line 9). Shlenker further discloses an absorptive device (hydrogels) associated with the inner surface of the integrally formed garment body (col. 7, lines 25-32).

As to claims 48 and 70, Shlenker discloses a color incorporated into the garment body (col. 2, lines 41-46; col. 6, lines 33-39).

8. Claims 29, 30, 32-36 38-40, 42, 44-47, 50, 57, 59, 61, 63-66, 68-69, and 72 are rejected under 35 U.S.C. 102(e) as being anticipated by Lasko et al. USPN 6277104.

As to claims 29, 32, 33, and 34, Lasko discloses a cover 71, absorbent core 74, and barrier structure 76 which form an integral garment body - integral in the sense that the components are part of a whole garment body - of stretchable liquid impermeable material 70,76 (col. 3, lines 36-40; col. 6, lines 54-55 where Lasko discloses the perforated film is stretched). In one interpretation of 'different thicknesses', Lasko discloses the barrier structure is thinned by embossing and stretched to create pores (col. 6, lines 53-56). While the pores are areas where the material is absent, the process of thinning the film to create the pores will invariable create different thicknesses in the film. In another interpretation of 'different thicknesses' as discussed in paragraph 2 above, Lasko discloses barrier structure in an overlapping arrangement,

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wrapping around a flange seal (col. 9, lines 24-26). The single layer of the barrier structure is one thickness and where the layer is overlapped on itself, is another thickness. The liquid impermeable material has an inner surface 79 having fibers 78 affixed to at least part of the inner surface, an adjustment device associated with the garment body as discussed in paragraph 5 above.

As to claims 30 and 61, Lasko discloses tabs as an adjustment device (col. 10, line 63 through col. 11, lines 6 and col. 11, lines 27-42).

As to claims 35, 36, 38-40, 63, and 64, Lasko discloses the garment comprises a perforations (col. 6, lines 43-48). As to the first and second portions, any part of the impermeable material constitutes a portion. A first portion can be considered the edges and the second portion can be considered the central portion. The absorbent material is most prominent in the central or second portion (Figures 7 and 9; col. 9, lines 9-26).

As to claims 42 and 65, Lasko discloses the fibers 78 attached to the inner surface and outer surface of the barrier structure 76 (col. 7, lines 57-58).

As to claims 44-46 and 68, Lasko discloses his invention is used in the claimed absorbent products (Abstract, col. 1, lines 5-10).

As to claims 47 and 69, Lasko discloses thermoplastic elastomers (col. 6, lines 58-67).

As to claim 50, Lasko discloses an embossed pattern (col. 6, lines 54-56).

As to claims 57 and 72, Lasko discloses tabs covered with release paper (col. 11, lines 27-28). The area of attachment between the release paper and tab constitutes a tear region in that the release paper is torn from the tabs for use.

As to claims 59 and 66, Lasko discloses elastics or stretchable materials for creating a body conforming garment (col. 11, lines 34-37).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 48 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lasko USPN 6277104 in view Wiegner USPN 4662876. Lasko discloses the present invention substantially as claimed. However, Lasko does not disclose a pigment. Wiegner discloses a liquid impermeable layer comprising colored coatings for the benefit of providing embossings or trademarks as well as to clearly delineate the impermeable regions from the permeable regions is so desired. It would have been

obvious to one having ordinary skill in the art to provide the impermeable cover of Lasko with color for the benefits taught in Wiegner.

11. Claims 49 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lasko USPN 6277104 in view Tanzer et al. USPN 5342333. Lasko discloses the present invention substantially as claimed. However, Lasko does not disclose a fragrance. Tanzer discloses a liquid impermeable layer comprising a deodorant and can also comprise a fragrance for the benefit of treating malodors (col. 6, lines 29-57). It would have been obvious to one having ordinary skill in the art to provide the impermeable cover of Lasko with a deodorant and fragrance as taught in Tanzer. Doing so would provide a method of treating malodors.

Conclusion

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacqueline F. Stephens whose telephone number is (571) 272-4937. The examiner can normally be reached on Monday-Friday 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jacqueline F Stephens
Primary Examiner
Art Unit 3761

May 8, 2007